IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No.168 of 1995

For Approval and Signature:
HONOURABLE MR.JUSTICE D.A.MEHTA Sd/-

HONOURABLE MS.JUSTICE H.N.DEVANI Sd/-

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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COMMISSIONER OF INCOME TAX - Applicant(s)
Versus
TALIMI INVESTMENT P LTD - Respondent(s)

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Appearance :
MR MANISH R BHATT for Applicant(s) : 1,
MR RK PATEL for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA
and
HONOURABLE MS.JUSTICE H.N.DEVANI

Date : 22/12/2005

ORAL JUDGMENT

(Per : HONOURABLE MS.JUSTICE H.N.DEVANI)

1. The Income Tax Appellate Tribunal, Ahmedabad Bench “B”, has referred the following questions under Section 256(1) of the Income-tax Act, 1961 (the Act) at the instance of the Commissioner of Income-tax :

FOR ASSESSMENT YEAR 1984-85

"Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that interest on redeemable bonds and convertible debentures attributable to the period under consideration was not includible in the total income of the assessee for asstt. Year 1984-85 ?"

FOR ASSESSMENT YEAR 1985-86

"Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that interest on redeemable bonds and convertible debentures attributable to the period under consideration was not includible in the total income of the assessee for A.Y. 1985-86 ?"

2. Heard Mr.M.R.Bhatt, learned Senior Standing Counsel on behalf of the applicant-revenue, and Mr.B.D.Karia, learned advocate on behalf of the respondent-assessee.

3. The learned advocates appearing for the respective parties have jointly requested the Court to take up the matter, despite the fact that one of us (D.A.Mehta, J) had appeared on behalf of the assessee before the Commissioner (Appeals), in

view of the fact that the case is covered by a judgement delivered by this Court in another matter. Pursuant to the special request made by the learned advocates, the matter was taken up for hearing.

4. It is common ground between the parties that the questions referred stand concluded by a decision of this Court in the case of Commissioner of Income-tax Vs. Nirman Investments Pvt. Ltd., Income Tax Reference No.116 of 1991, decided on 1st October, 2002 wherein this Court while following its earlier decision rendered in Income Tax Reference No.110 of 1990 on 10th July, 2002 has answered the question referred in the affirmative i.e. in favour of the assessee and against the Revenue.

5. Looking to the law laid down by this Court in the aforesaid decision, the question referred to this Court is answered in the affirmative i.e. in favour of the assessee and against the revenue.

6. The reference stands disposed of accordingly, with no order as to costs.

Sd/-
[D.A. MEHTA, J]

Sd/-
[H.N. DEVANI, J]

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*Bhavesh**